

### REMARKS

Claims 1-25 are pending in the present application. Claim 4 has been amended to maintain consistent language with independent Claim 1. In the March 17, 2003, Claims 1-3, 6, 7, and 25 were rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,256,028 B1 to Sanford, et al. Claims 4, 5, 8, and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sanford in view of U.S. Patent No. 6,286,002 B1 to Axaopoulos. Claims 9-13, 19 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sanford in view of Axaopoulos and further in view of U.S. Patent No. 6,260,024 to Shkedy. Claims 15-18 and 22-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sanford in view of Axaopoulos and further in view of U.S. Patent No. 6,185,541 B1 to Scroggie et al. Claim 21 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Sanford in view of Scroggie.

#### 35 U.S.C. § 102(e) Rejections Over Sanford

**The reference relied upon by the Examiner in rejecting Claims 1-3, 6, 7, and 25 does not disclose every element of the invention as claimed.**

In order to anticipate a claim, a reference must teach every element of the claim. See M.P.E.P. § 2131. In this case, Sanford fails to satisfy this basic requirement. Applicants therefore traverse the rejection of Claims 1-3, 6, 7, and 25 under 35 U.S.C. § 102(e).

With respect to Claims 1-3, 6, 7, and 25, because Sanford does not even recognize the problems associated with providing product information, and fails to even discuss providing product information, commerce menus, or product categories, Sanford fails to teach or suggest the invention as claimed.

For example, Sanford, which fails to discuss providing product information or product categories, fails to disclose a "method of providing access to information relating to a plurality of products using a cascading commerce menu," as recited by the preamble of Claim 1. Sanford further fails to "disclose providing a first level menu listing a first set of product categories," "detecting a position of a cursor over a first product category listed in said first set of product categories." or "providing a cascading second level menu listing a first set of product

subcategories related to said first product category in response to said detection of said cursor position,” as recited by Claim 1.

Similarly, Sanford fails to teach or suggest a “system that provides access to information relating to a plurality of products using a cascading commerce menu,” means for providing a first level menu listing a first set of product categories,” “means for detecting a position of a cursor over a first product category listed in said first set of product categories,” or “means for providing a cascading second level menu listing a first set of product subcategories related to said first product category in response to said detection of said cursor position,” as recited by Claim 25.

The Examiner appears to take the position that the abstract and Figure 7 disclose a method of providing access to information relating to a plurality of products using a cascading commerce menu. However, a careful examination of the abstract and Figure 7 fails to disclose any mention of products or commerce menus. For example, the menu disclosed in Figure 7 merely illustrates a news web site menu with related news topics and does not make reference to products or a commerce menu.

Further, despite the Examiner’s assertions, Col. 7, lines 11-13 and Figure 7 fail to even discuss or disclose product categories, and so fail to teach or suggest detecting a position of a cursor over a first product category listed in said first set of product categories, or providing a cascading second level menu listing a first set of product subcategories related to said first product category in response to said detection of said cursor position as claimed.

Similarly, because Sanford fails to even discuss products or commerce sites, Sanford fails teach or suggest that a “first set of product categories provides a link over the Internet to a commerce site,” as recited by Claim 3.

Furthermore, with respect to Claim 7, rather than disclosing “transmitting changes to be applied to the text stored on the client computer,” as claimed, Sanford discloses at Column 6, lines 31-53 and on Figures 5 and 6, that when updating a cascading menu an entire datafile assigned to a site browser is downloaded, rather than changes to be applied to text stored on a client computer. Thus, Sanford, which discloses a more bandwidth intensive and time consuming process for updating cascading menus, teaches away from the invention as claimed. A prior art reference must be considered in its entirety, i.e., as a whole, including portions that

Appl. No. : 09/653,095  
Filed : August 31, 2000

would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984); See M.P.E.P. § 2141.02.

### **35 U.S.C. § 103(a) Rejections**

**The references relied upon by the Examiner do not disclose or suggest every limitation of the invention as claimed. Further, there is no motivation to combine the references.**

In order to establish prima facie obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. See M.P.E.P. § 2143.03. In this case, the references cited by the Examiner fail to satisfy this basic requirement. Further, there is no motivation to combine the references as proposed by the Examiner. Applicants therefore respectfully traverse the rejection of Claims 4, 5, and 8-24 under 35 U.S.C. § 103(a).

### **Claims 4, 5, 8, and 14**

In rejecting independent Claim 14, the Examiner asserts that Sanford discloses a method of providing access to information relating to a plurality of products using a cascading commerce menu. Applicants respectfully traverse the Examiner's characterization of Sanford. As similarly discussed above with respect to Claims 1 and 25, Sanford fails to even mention products or commerce menu, much less a method of providing access to information relating to a plurality of products using a cascading commerce menu. Instead, the menu illustrated by Figure 7 of Sanford, corresponds to a news website.

The Examiner further asserts that Sanford discloses providing a first level menu listing a first set of product categories; detecting a position of a cursor over a first product category listed in said first set of product categories; and providing a cascading second level menu listing a first set of product subcategories related to said first product category in response to said detection of said cursor position. However, as previously discussed, Sanford, which fails to even mention products, further fails to disclose providing a first level menu listing a first set of product categories as asserted by the Examiner.

Similarly, despite the Examiner's assertion, Sanford fails to disclose detecting a position of a cursor over a first product category listed in said first set of product categories or providing a

**Appl. No.** : 09/653,095  
**Filed** : August 31, 2000

cascading second level menu listing a first set of product subcategories related to said first product category in response to said detection of said cursor position.

Because Sanford fails to disclose and is not concerned with products or with generating search requests, there would be no motivation to modify Sanford, with the disclosure of Axaopoulos, which is directed primarily to storing and searching buy and sell information of a marketplace.

Further, even if Sanford were modified with the disclosure of Axaopoulos, because Sanford fails to disclose a cascading commerce menu, providing a first level menu listing a first set of product categories, or providing a cascading second level menu listing a first set of product subcategories related to said first product category, the combination would fail to disclose or suggest the invention as claimed. For example, the combination would fail to disclose providing a first level menu including a set of high-level product categories; detecting a customer selection of a high-level product category from said set of high-level product categories; providing a cascading second level menu including a set of relatively narrower product categories related to said high-level product category in response to said customer selection; detecting a customer selection of a relatively narrower product category from said set of relatively narrower product categories; automatically generating a search request based at least in part on said customer selection of said relatively narrower product category; and providing the customer with information on products related to said selected relatively narrower product category at least partly in response to said search request, as recited by Claim 14. Applicants therefore traverse the rejection of Claim 14. Applicants similarly traverse the rejection of Claims 4, 5, and 8.

In addition, with respect to Claim 8, the Examiner has taken the position that Figure 22 of Axaopoulos teaches a method further including ranking providers based on an aggregate price of an item available from the providers wherein the item corresponds to the first product category and the first product subcategory, the method comprising: receiving a first item price for said item from a first provider; receiving a first additional cost associated with providing the item by said first provider to a first consumer; receiving a second item price for said item from a second provider; receiving a second additional cost associated with providing the item by said second provider to said first consumer; and ranking said first provider and said second provider based on

Appl. No. : 09/653,095  
Filed : August 31, 2000

at least said first item price, said second item price, said first additional cost, and said second additional cost.

However, a careful examination of Figure 22 fails to disclose the elements that the Examiner asserts are taught by Axaopoulos. For example, Figure 22 fails to disclose ranking providers based on an aggregate price of an item. Indeed, Figure 22 merely discloses providing a list of two selling agents corresponding to automobiles, and two corresponding offer prices. Figure 22 does not disclose that the list of the two selling agents was ordered based on an aggregate price. Indeed, Figure 22, which merely discloses two offer prices does not disclose that either of the offer prices are aggregate prices. Thus, for example, Figure 22 does not disclose "receiving a first additional cost associated with providing the item by said first provider to a first consumer," or "receiving a second additional cost associated with providing the item by said second provider to said first consumer." Figure 22 therefore fails to teach or suggest and ranking said first provider and said second provider based on at least said first item price, said second item price, said first additional cost, and said second additional cost as claimed.

#### **Claims 9-13, 19 and 20**

The Examiner has taken the position that the combination Sanford and Axaopoulos discloses the ranking of providers based on an aggregate price including ranking providers based on an aggregate price of an item available from the providers wherein the item corresponds to a first product category and a first product subcategory, the method comprising: receiving a first item price for said item from a first provider; receiving a first additional cost associated with providing the item by said first provider to a first consumer; receiving a second item price for said item from a second provider; receiving a second additional cost associated with providing the item by said second provider to said first consumer; and ranking said first provider and said second provider based on at least said first item price, said second item price, said first additional cost, and said second additional cost. However, as discussed above with respect to Claim 8, the Examiner has mischaracterized Axaopoulos, and the combination of Sanford and Axaopoulos fails to disclose ranking based on aggregate prices.

Further, because the combination of Sanford and Axaopoulos fails to disclose ranking based on aggregate prices or additional costs associated with providing items, there would be no

Appl. No. : 09/653,095  
Filed : August 31, 2000

motivation to modify the combination of Sanford and Axaopoulos with the disclosure of Shkedy to further define additional costs or ranking as recited by Claims 9-13 and 20. Further, there would be no motivation to modify Sanford, which is not concerned with products or selling products, with the disclosure of Scroggie, which is primarily directed to providing shopping aids and incentives to customers (see Abstract). It is therefore improper to modify Sanford as suggested by the Examiner. Applicants therefore traverse the rejection of Claims 9-13 and 20.

**Claims 15-18 and 22-24**

As similarly discussed above, there is no motivation to modify Sanford, which is not concerned with products or with generating search requests, with the disclosure of Axaopoulos, which is directed primarily to storing and searching buy and sell information of a marketplace. Similarly, there would be no motivation to modify Sanford, which is not concerned with products or selling products, with the inventions disclosed by Scroggie. Applicants therefore respectfully traverse the rejection of Claims 15-18 and 22-24.

**Claim 21**

As similarly discussed above, Sanford, which fails to discuss products or product categories, fails to teach or suggest detecting a customer selection of a product category on a first level menu of said cascading menus. Further, in contrast to the Examiner's characterization of Sanford, neither Sanford nor Scroggie teach or suggest "causing a display of a cascading second level menu including a subset of product categories within the selected product category, wherein the subset contains one or more product categories; detecting a customer selection of a first of said subset of product categories," as recited by Claim 21. Further, there would be no motivation to modify Sanford, which is not concerned with products or selling products, with the disclosure of Scroggie, which is primarily directed to providing shopping aids and incentives to customers (see Abstract). It is therefore improper to modify Sanford as suggested by the Examiner.

**Summary**

In view of the foregoing remarks, Applicants respectfully submit that independent Claims 1, 14, 21, and 25 are patentably distinct over the cited art and are in condition for allowance. Claims 2-13, 15-20, and 22-24 which correspondingly depend from independent Claims 1, 14, and 21 and further define Claims 1, 14, and 21, are likewise patentably distinct over the cited art and are in condition for allowance. Applicants therefore respectfully request allowance of Claims 1-25.

Appl. No. : 09/653,095  
Filed : August 31, 2000

Request for Telephone Interview

If there are any issues that can be resolved by telephone, the Examiner is respectfully requested to call the undersigned attorney of record at (310) 407-3461 or at the number set forth below.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: September 16, 2003

By: David N. Weiss  
David N. Weiss  
Registration No. 41,371  
Attorney of Record  
Customer No. 20,995  
(310) 551-3450

L:\DOCS\DNW\DNW-5712.DOC  
091003